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FRIENDS OF YOSEMITE VALLEY and
MARIPOSANS FOR THE ENVIRONMENT
AND RESPONSIBLE GOVERNMENT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

FRIENDS OF YOSEMITE VALLEY, a non-
profit corporation; and Mariposans for the
Environment and Responsible Government
("MERG"), a non-profit corporation,

Plaintiffs,

v.

GALE NORTON, *et al.*,

Defendants.

Case No. 00-6191 AWI DLB

DECLARATION OF BRIAN H.
OUZOUNIAN IN SUPPORT OF
PLAINTIFFS' REPLY MEMORANDUM ON
REQUEST FOR RELIEF

DATE: 10/16/06
TIME: 1:30 p.m.
COURTROOM: 3

1. I am 56 years old and reside at 2821 Dumfries Road, Los Angeles, California.
2. I have a Bachelor of Science degree in Construction from Arizona State University. I am President and Chief Operating Officer of Ouzounian Constructors, Inc. (Lic. #400754), established in 1980, which is a general construction and consulting firm. I am a member of the American Institute of Constructors (A.I.C.). I hold an individual general contractor's license in the State of California (Lic. #434597). In the course of my duties to building plans, codes, and projects, I deal with disability standards on a day-to-day basis.
3. I have camped in Yosemite each year, and some multiple times per year, since 1955. I am co-founder of the Yosemite Valley Campers Coalition.
4. I am a caregiver to my disabled 54-year old brother who has camped with me over the years, since 1955. I am my brother's advocate as well. He suffers from a rare spinal disease called Syringomyelia, to which there is no cure. He constantly encounters barriers in his pursuit of everyday life.
5. For the past decade, I have made repeated requests to Yosemite National Park Service (YNPS) officials concerning the lack of compliance with disability access standards. I began with requests to Camp Hosts while camping in North Pines Campground in Curry Village. I then submitted written complaints on campground complaint forms issued at the kiosks. I then spoke on the issue in formal public hearings and in meetings in camp with park officials. Eventually, due to the lack of response, I filed a formal complaint dated February 9, 2006 with Fran Mainella, National Park Service Director in Washington D.C.

Campground since I began making the requests. Prior to my complaints, the facilities did not comply with disability access standards. Any attempts at compliance since have been done erroneously or to a substandard product. This is reflected in my complaint to the National Park Service, a true and correct copy of which is attached hereto as Exhibit A.

7. I submit this declaration because I take deep offence at the YNPS using my letters, my communications, and the issue of disability access to obscure the need for proper planning in and around the Merced River in Yosemite Valley, and to leverage approval of development to disabled access. Disabled access is an issue that stands alone from any plan. It is a standard of care for any work product or project or facility, imposed by federal law, like other codes.

8. I discussed this with YNPS officials including, Larry Harris and Bill Delaney, in July (6th or 7th) 2005 in Site 103, North Pines Campground. During this meeting, which I requested, Mr. Harris stated that he was the head of the "A" team, which stood for "Action." He advised that he was not a paper pusher, and was given top authority by Superintendent Tollefson, with the budget, to correct the substandard conditions for the disabled. We discussed my brother's challenges and those of the disabled. Mr. Harris, Mr. Delaney, and I walked each restroom and the campground in our two-hour meeting. I pointed out the conditions and there was unanimous consensus, without exception among the three of us, that there were significant and multiple substandard conditions at each restroom. We even talked about the campsites complying with "universal design" standards that would not discriminate against the disabled. I

that it is important to show the "perception of intent to comply" for the defense of these issues and he believed that they were doing just that. I stated that I am not concerned with perceptions but rather results and soon. He stated that results were his mission.

9. I asked Mr. Harris and Mr. Delaney if the reason for non-compliance is because the planning process calls for the removal of North Pines Campground. He said "absolutely not," and that disabled issues stand alone from any plan as a federal obligation in any regard.

10. I returned to the campground six weeks later, in mid-August, 2005. I invited Mr. Harris to meet me at the campground to go over improvements made. None had been done. Mr. Harris and I discussed the status of the improvements as none were done; not even the simplest ones. Mr. Harris advised me that a plan takes time and organization. I requested he provide me with a blueprint and scope of work, once completed. His reasons at this meeting for nothing having been done were of a bureaucratic nature, rather than that of the "A" team captain.

11. Subsequently, in December 2005, I called Mr. Harris to follow up on the status of the blueprint and scope of work. He returned my call on or about January 3, 2006, and stated that the improvements were not a priority and now funding was limited. He needed to first address the complaints from Washington, D.C. This upset me. I advised him that it left me no choice but to prepare a formal complaint to the Director. I contacted Dianne Spriggs, Manager of the E.E.O. office and issued the complaint on February 9, 2006, a copy of which is attached as Exhibit A.

Superintendent requesting an internal review of the facilities. Subsequently, I received a copy of Mr. Tollefson's letter of response to the E.E.O., which did not identify all of the substandard conditions that Mr. Harris, Mr. Delaney and I had confirmed in our July 2005 site meeting. A true and correct copy of this Memorandum is attached hereto as Exhibit B. Mr. Harris advised me that he had written this memorandum for the Superintendent. I was surprised and discouraged that all the deficiencies we previously all had agreed to were not listed. I made objection to his failure to accurately report the situation in a memorandum I faxed to Dianne Spriggs, dated July 16, 2006. A true and correct copy of this memorandum is attached hereto as Exhibit C.

13. In August 2006, I contacted Ms. Spriggs to inquire about the status of my complaint. Mr. Jack Andre of the E.E.O. office called me to say that he was going to Yosemite to do a site review and include my complaint. We discussed the inconsistency related to the meetings with Mr. Harris. We also discussed a newly installed split-rail fence installed along 200 yards of the Merced River at North Pines which barred the access by the disabled. I requested to attend this meeting. I was instructed that it was not open to the public due to the sensitive nature of the discussions. The phone call was comprehensive in nature. He assured me that the access project was a priority and he would address my concerns, including the fence. Since his visit, I have left three messages for Mr. Andre with no reply.

items listed in the March 22, 2006 Memorandum from Superintendent Tollefson, attached as Exhibit B, had been remedied as of that time.

15. There are no accessible campsites sites in North Pines Campground, currently nor planned. I have read the Declaration of Superintendent Tollefson, dated September 20, 2006, concerning the development of the Curry Village Campgrounds. At paragraph 39, the Superintendent references 59 "walk-in sites" and thirty recreational vehicle (RV) sites. In paragraph 44, in the context of "the Upper, Lower, and North Pines Campgrounds," he advises that the project will result in 8 new accessible sites. However, the proposed campsites are limited only to Upper Pines Campground. Furthermore, the term "walk-in sites" is an oxymoron. There is no accessible standard for walk-in sites or RV sites. The disabled cannot carry their gear. They need drive-up abilities with a special lift-equipped vehicle. Only on rare occasions and limitless budgets are there disabled equipped RV's. As an advocate for the disabled, and as one who has made concerted efforts for over a decade to get the YNPS to comply with disability access standards, I am offended at the tactics now being used to obscure the mission of compliance with federal standards and access for the disabled in all of the campgrounds. Using the 89 sites in Upper Pines as a remedy for the substandard conditions in North Pines is deceiving.

16. Additionally, I have not been provided notice or a copy of any transitional or permanent plan for disabled access which outlines steps to be taken to provide disabled access. In my experience, it is disingenuous for the YNPS to use disability access improvements to

justify any development. As I stated before, disability access stands alone as a federal requirement and to link it with development needs and user capacity is like mixing apples and oranges. They are two distinctly different exercises.

Pursuant to 28 U.S.C. § 1746 and under the laws of the United States, I declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of September, 2006 in Los Angeles, California.



Brian H. Ouzounian